

of Columbia, to be an Assistant Attorney General, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from Maryland (Mr. CARDIN), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Oklahoma (Mr. INHOFE), and the Senator from South Dakota (Mr. ROUNDS).

The yeas and nays resulted—yeas 54, nays 40, as follows:

[Rollcall Vote No. 278 Ex.]

YEAS—54

| | | |
|--------------|--------------|------------|
| Baldwin | Grassley | Padilla |
| Bennet | Hassan | Peters |
| Blumenthal | Heinrich | Reed |
| Blunt | Hickenlooper | Rosen |
| Brown | Hirono | Sanders |
| Cantwell | Kaine | Schatz |
| Capito | Kelly | Schumer |
| Carper | King | Shaheen |
| Casey | Klobuchar | Sinema |
| Collins | Leahy | Smith |
| Coons | Lujan | Stabenow |
| Cornyn | Manchin | Tester |
| Cortez Masto | Markey | Van Hollen |
| Duckworth | Menendez | Warner |
| Durbin | Merkley | Warnock |
| Feinstein | Murkowski | Warren |
| Gillibrand | Murphy | Whitehouse |
| Graham | Ossoff | Wyden |

NAYS—40

| | | |
|-----------|------------|------------|
| Barrasso | Hoeben | Rubio |
| Blackburn | Hyde-Smith | Sasse |
| Boozman | Johnson | Scott (FL) |
| Braun | Kennedy | Scott (SC) |
| Burr | Lankford | Shelby |
| Cassidy | Lee | Sullivan |
| Cotton | Lummis | Thune |
| Cramer | Marshall | Tillis |
| Cruz | McConnell | Toomey |
| Daines | Moran | Tuberville |
| Ernst | Paul | Wicker |
| Fischer | Portman | Young |
| Hagerty | Risch | |
| Hawley | Romney | |

NOT VOTING—6

| | | |
|--------|--------|--------|
| Booker | Crapo | Murray |
| Cardin | Inhofe | Rounds |

The PRESIDING OFFICER (Mr. HEINRICH). On this vote, the yeas are 54, the nays are 40.

The motion is agreed to.

The Senator from Rhode Island.

EXECUTIVE CALENDAR

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the following nomination: Calendar No. 165.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The legislative clerk read the nomination Frank Kendall III, of Massachusetts, to be Secretary of the Air Force.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate vote on the nomination without intervening action or debate; that if confirmed, the motion to reconsider be

considered made and laid upon the table, all without intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the Kendall nomination?

The nomination was confirmed.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS OF HELAINE ANN GREENFELD AND CHRISTOPHER H. SCHROEDER

Mr. GRASSLEY. Mr. President, I intend to object to any unanimous consent request relating to the nomination of Helaine Ann Greenfeld, to be an Assistant Attorney General at the Department of Justice, PN459, and Christopher H. Schroeder, to be an Assistant Attorney General at the Department of Justice, PN370.

Last week, at the Senate Judiciary Committee's executive business meeting, I noted my intent to vote for both nominees but object to any unanimous consent request for their confirmation. Ms. Greenfeld will lead the Justice Department's Office of Legislative Affairs and Mr. Schroeder will lead the Justice Department's Office of Legal Counsel. Both of these components are at the heart of my congressional oversight requests and the Department's failure to respond. I have made this decision clearly not on the basis of their credentials but on the basis of the Justice Department's failure to respond to congressional oversight requests.

To date, the Justice Department has failed to provide a full and complete response to any of my oversight requests. I said the same thing when I objected to any unanimous consent request relating to the Kenneth Polite nomination on June 22, 2021. Nothing has changed.

For example, on July 15, 2021, my staff had yet another call with the Justice Department's Office of Legislative Affairs, the very office Ms. Greenfeld will be in charge of. On that call, the Department wanted to know why I had a hold on Mr. Polite and whether they could do anything to change my mind. My staff made clear to the Department that the issues before them are quite

simple: Attorney General Garland must respond to my oversight letters and records requests.

The Department asked for that call with my staff, and the Department did not provide my staff a substantive update on any of my oversight requests. It is absurd for the Department to schedule a call relating to my hold on Mr. Polite, which was done due to the Department's consistent failure to respond to my oversight requests, and then have no updates relating to any of my oversight requests.

As one of many examples of unanswered questions and requests, on February 3, 2021, and March 9, 2021, Senator JOHNSON and I requested information from the Justice Department relating to Nicholas McQuaid. Mr. McQuaid was Acting Assistant Attorney General for the Criminal Division, the position Mr. Polite now holds. In those letters, we raised concerns about potential conflicts of interest in light of the fact that Mr. McQuaid was employed at Latham & Watkins until January 20, 2021, and worked with Christopher Clark, whom Hunter Biden reportedly hired to work on his Federal criminal case.

This arrangement presents an ongoing potential conflict of interest given the fact Mr. McQuaid is still employed at the Criminal Division as the Principal Deputy Assistant Attorney General. A core function of congressional oversight is to ensure that governmental departments and agencies are free of conflicts of interest. That is especially so with the Justice Department and FBI. If conflicts infect them, those investigations and prosecutions—the very purpose of the Department's existence—could be undermined.

As a part of my oversight, I have requested a recusal memo for Mr. McQuaid. I have also requested to know, as a threshold issue, whether one even exists.

Attorney General Garland has failed to answer and provide the requested records. I have noted to the Department that in 2016, I received from the Department Andrew McCabe's recusal memo to illustrate precedent exists for such a production to Congress. Still, the Justice Department refuses to provide the same for Mr. McQuaid.

On the July 15, 2021, call with my staff, they again raised my questions about Mr. McQuaid. The Department was unable to provide any legitimate basis upon which it could not answer my questions and again failed to provide any update on the Department's response.

As I have noted before with respect to the Federal Government's failure to respond to legitimate congressional oversight requests, there is nothing more eroding of public faith than an unresponsive executive branch that believes it only answers to the President and not the U.S. Congress and, perhaps most importantly, "We the People."

This administration's continued, ongoing, and blatant lack of cooperation has again forced my hand.